

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JENNIFER L. FARGIONE and	:	
JUDY L. PAVELKO, In their own right and	:	CIVIL ACTION
as Co-Administrators for the Estate of	:	
CAROL L. WILLIAMS, Deceased,	:	
Plaintiffs,	:	NO. 16-5878
	:	
v.	:	
	:	
EDWARD SWEENEY, et al.,	:	
Defendants.	:	
	:	

ORDER

AND NOW, this 27th day of September, 2017, upon consideration of Motion to Dismiss Plaintiffs' Complaint and/or Motion to Strike by Defendant, PrimeCare Medical, Inc. (Dkt. No. 18), the Plaintiffs' Memorandum of Law in Opposition (Dkt. No. 19) and consistent with the accompanying Memorandum,

IT IS ORDERED that the Motion is **DENIED** as to Plaintiffs' Section 1983 claims in Counts I and II, claims for negligent infliction of emotional distress in Count X, wrongful death in Count XII and survival in Count XIII;

IT IS ORDERED that Plaintiffs' Fourteenth Amendment claims against PrimeCare in Counts I and II are **DISMISSED** with prejudice;

IT IS ORDERED that Plaintiffs' conspiracy claims in Counts VI and XI are **DISMISSED** with leave to amend to the extent that Plaintiffs can set forth factual averments to plausibly allege the requisite agreement or concerted action between PrimeCare and any of the Defendants;

IT IS ORDERED that Plaintiffs' corporate negligence claim in Count VIII is **DISMISSED** with leave to amend to the extent that Plaintiffs are able to allege sufficient facts to plead PrimeCare's direct liability for negligence;

IT IS ORDERED that Plaintiffs' intentional infliction of emotional distress claim in Count IX is **DISMISSED** with leave to amend;

IT IS ORDERED that the Motion to Strike Paragraphs 50 and 51 of the Complaint is **DENIED**.

IT IS FINALLY ORDERED that Plaintiffs may file an Amended Complaint on or before **Wednesday, October 18, 2017**.

BY THE COURT:

/s/ Henry S. Perkin
HENRY S. PERKIN
UNITED STATES MAGISTRATE JUDGE